

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.33476 of 2018
and
W.M.P.Nos.38847 & 38848 of 2018

Dr.B.S.Gnanarubhan

...

Petitioner

Vs.

1. The Medical Superintendent
Government Hospital
Ariyalur.
2. The Joint Director
Government Hospital
Perambalur.
3. The District Siddha Medical Officer
Government Hospital
Trichy.

...

Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in proceedings in Na.Ka.En.895/Ni/2018-2, dated 16.11.2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The notice of enquiry dated 16.11.2018 directing the writ petitioner to appear before the Enquiry Officer is under challenge in the present writ petition.

2.The writ petitioner was appointed as Assistant Siddha Medical Officer. On account of certain allegations and based on the complaint submitted by one Smt.P.Anbukarasi, the writ petitioner was directed to appear before the Enquiry Officer on

20.11.2018 @ 10.00 a.m. In stead of submitting his explanations in respect of the complaint filed against the writ petitioner, the petitioner has chosen to file the present writ petition, mainly on the ground that the enquiry notice causes violation of basic human rights and the authorities have no jurisdiction to issue such a notice.

3.However, the impugned notice states that the Nursing Superintendent, Smt.P.Anbukarasi, filed a complaint against the writ petitioner and in order to conduct a preliminary enquiry, the writ petitioner was directed to appear for an enquiry.

4.Under these circumstances, this Court is of an opinion that action must be initiated to conclude the preliminary enquiry and if there is a prima facie case against the writ petitioner, then the competent authorities are bound to initiate disciplinary action under the Statute.

5.No writ can be entertained against an enquiry notice and only on exceptional circumstances, the Writ Proceeding can be entertained. A writ against an enquiry notice can be challenged only if the same is issued by an incompetent authority having no jurisdiction or allegation of mala-fides are raised or if the same is in violation of statutory rules in force. Even in case of allegation of mala-fides, the person against whom such allegations are made are to be added as party-respondents in his personal capacity in the writ proceedings. In the absence of any one of the legal grounds, no writ can be entertained and judicial review in this regard is certainly limited and the Courts must be cautious before entertaining any such writ petition challenging the enquiry notice.

6.Admittedly, one Nursing Superintendent namely, Smt.P.Anbukarasi, submitted a complaint against the writ petitioner. The complaint is to be inquired into and if there is any prima facie case then the authorities are bound to institute all other consequential proceedings warranting under the Law.

7.This being the procedures to be followed, the writ petitioner is directed to participate in the process of enquiry and to defend his case by establishing innocence or otherwise. During the course of enquiry, if the allegations are established or the prima facie is found, then the authorities competent are bound to institute all required proceedings under the Statute for the purpose of proceeding with the complaint in accordance with law.

8.With these directions, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Medical Superintendent
Government Hospital
Ariyalur.
2. The Joint Director
Government Hospital
Perambalur.
3. The District Siddha Medical Officer
Government Hospital
Trichy.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.33272

W.P.No.33476 of 2018

PPA (CO)
CS/08/05/2019

सत्यमेव जयते
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